UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS

Dr. Michael Moates
Plaintiff
V.
STATE OF NORTH CAROLINA,
STATE OF TEXAS,
STATE OF VIRGINIA, AND
STATE OF NEVADA
Defendants

Case No.: <u>4:23-cv-00772</u>

MOTION FOR EXTENSION OF TIME TO

RESPOND TO DEFENDANT STATE OF TEXAS'S MOTION TO DISMISS

Pursuant to Federal Rule of Civil Procedure 6(b), Plaintiff, Dr. Michael Moates, hereby moves this Court for an extension of time to file a response to the Motion to Dismiss filed by Defendant State of Texas on August 28, 2023.

Background: On August 28, 2023, Defendant State of Texas filed a Motion to Dismiss and Response in Opposition to Plaintiff's Motion for Preliminary Injunction. The response to this motion is due within 21 days.

<u>Technical Arguments Observed:</u> The Plaintiff has observed technical arguments raised by both the State of Texas in their Motion to Dismiss and the State of North Carolina in their Motion for Extension of Time to Answer or Otherwise Respond to the Complaint.

Intention to Amend Complaint: In light of the technical concerns raised by the Defendants, the Plaintiff intends to file an amended complaint to address and cure these technical issues. Pursuant to Federal Rule

of Civil Procedure 15(a), the Plaintiff is allowed to amend the complaint once as a matter of course within the specified time frame. To ensure that all technical concerns are addressed in a single amendment and avoid the potential need for multiple filings, the Plaintiff wishes to have both motions to dismiss before amending the complaint.

Request for Extension: To ensure that the Plaintiff can adequately address the technical concerns raised by both the State of Texas and the State of North Carolina, the Plaintiff respectfully requests an extension of time to file a response to the Motion to Dismiss. Specifically, the Plaintiff requests 10 business days to complete the complaint after the State of North Carolina submits their response, which is due on September 24, 2023. That would make the Plaintiff's Amended Complaint due on October 9th, 2023. This will allow the Plaintiff to review both motions, identify all technical concerns, and address them in a single amended complaint.

<u>Pending Motions:</u> Should the Court grant this motion, Dr. Moates withdraws all pending motions, including the motions for a temporary restraining order (dkt 2) and preliminary injunction (dkt 14). The Plaintiff will then refile everything with a consolidated complaint. This approach is intended to streamline the proceedings and promote judicial efficiency.

<u>Certificate of Conference:</u> Plaintiff Dr. Michael Moates has conferred with all counsel of record. Counsel for Defendant State of Texas agreed to the Motion. See Exhibit A.

Counsel for Defendant State of North Carolina did not respond to Plaintiff Dr. Michael Moates' request regarding the Motion. Moates' response as it stands today is due on 19 September 2021. Since Moates will be out of town from 10 September through 14 September, he is trying to act quickly in order to give the

court time to rule on said Motion. Moates emailed Tamika Henderson, Special Deputy Attorney General for the State of North Carolina at around 5:30 AM on 7 September 2023. See Exhibit B. While Ms. Henderson responded to Dr. Moates on another matter, she did not respond to his request regarding the Motion. See Exhibit C. Dr. Moates sent a follow up email that has not received a response despite being read. See Exhibit D. Should Dr. Moates receive a response from the State of North Carolina, he will promptly file a supplement to this Motion. The need for this request of an extension comes before the court due to Defendant State of North Carolina's failure to file a prompt response as required by the FRCP. It is our hope that the state would be understanding as the court has been with them.

<u>Conclusion:</u> Granting this extension will promote judicial efficiency and will not prejudice the Defendants. It will allow the Plaintiff to address all technical concerns in a single amended complaint, reducing the need for multiple filings and potential complications.

WHEREFORE, Plaintiff Michael Moates respectfully requests that this Court grant an extension of time to file a response to the Motion to Dismiss filed by Defendant State of Texas until after the State of North Carolina has filed their response to the Complaint.

Respectfully submitted,

/s/ Michael Moates, EdD, Pro Se

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CERTIFICATE OF SERVICE

I hereby certify that on 9 September 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Eric Fineman, Assistant Attorney General

Office of the Texas Attorney General, General Litigation Division

209 West 14th Street, Austin, TX 78701

Phone: 512.475.4271 | Eric.Fineman@oag.texas.gov

Tamika L. Henderson

Special Deputy Attorney General, Special Litigation Section

114 W. Edenton Street, Raleigh, NC 27603

Phone: (919) 716-6566 | tlhenderson@ncdoj.gov

EXHIBIT A

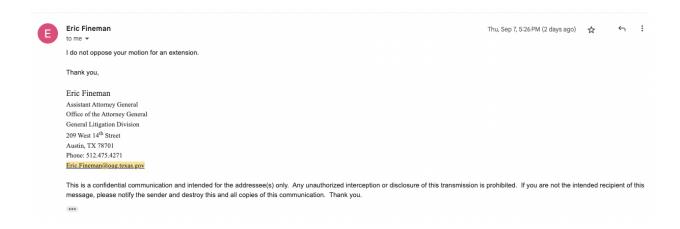


EXHIBIT B

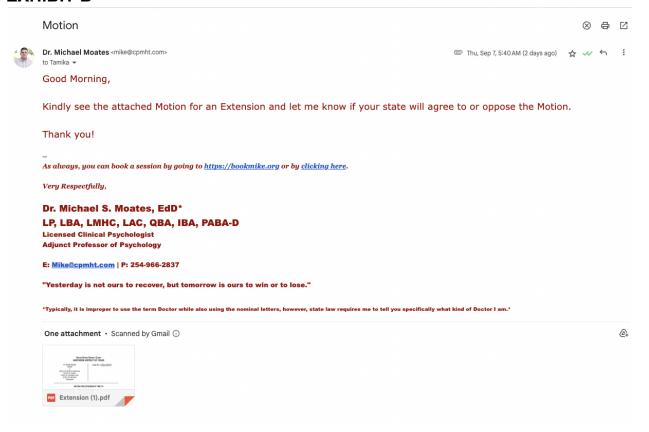


EXHIBIT C

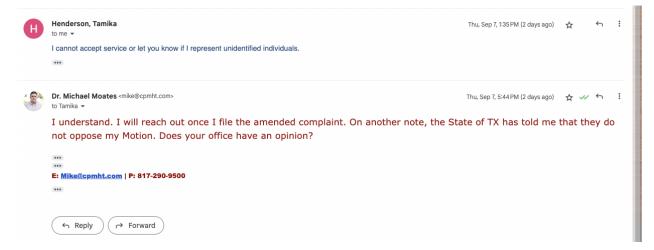


EXHIBIT D

Email Delivery Certificate generated by Mailtrack

From	Professor Michael Moates MA QBA LBA LMHC <mike@cpmht.com></mike@cpmht.com>
Subject	Motion
Message ID	<cahx7xgsbr=add=-ktqmv45e5vze9ek991jgr+cr20cepqbryaw@mail.gmail.com></cahx7xgsbr=add=-ktqmv45e5vze9ek991jgr+cr20cepqbryaw@mail.gmail.com>
Delivered on	7 Sep, 2023 at 5:40 AM
Delivered to	Henderson, Tamika <tlhenderson@ncdoj.gov></tlhenderson@ncdoj.gov>

Tracking history

Opened on 7 Sep, 2023 at 5:40 AM by Henderson, Tamika